

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 4:16-cr-40027-JPG-2

MISTY D. CALVERT,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on defendant Misty D. Calvert's motion for sentencing credit. (Doc. 77.) Calvert argues that the Court should award her two days of sentencing credit for every one day served because her place of detention—White County Detention Facility—is considered a “hardtime” detention facility that violates her 8th and 14th Amendment rights. Calvert does not identify, however, any statute or procedural rule under which she brings this motion, and the Court is puzzled why Calvert decided to file this motion in her criminal case. *See McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936) (“the one who claims that the power of the court should be exerted in his behalf . . . must carry throughout the litigation the burden of showing that he is properly in court.”). Accordingly, the Court must **DISMISS** Calvert's motion for lack of subject-matter jurisdiction, but reminds Calvert that she may pursue alternative theories of relief if she believes the White County Detention Facility is violating her 8th and 14th Amendment rights.

IT IS SO ORDERED.

DATED: JANUARY 19, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE